

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.7173 OF 2003

Shri Kashinath Sayaji Gavde & Anr. : Petitioners
V/s.

Shri Baban Kisan Gavde & Ors. : Respondents

...

Mr.Ambar Joshi for Mr.S.M. Oak for the petitioners.

None present for the respondents.

...

CORAM : S.A. BOBDE, J.
February 4, 2005.

P.C.:

1. The petitioners have challenged the order of the revisional Court upholding the order of the Collector, Pune, by which the Collector effected mutation in the revenue record. The learned counsel for the petitioners submitted that the revisional Court has committed an error in not reversing the order of the Collector because the order of the lower Court was challenged before the Collector after a long time.

2. Having heard the learned counsel for the petitioners and having perused the order of the revisional Court,

there is no error of law apparent on the face of the record. The Collector effected the mutation on the basis of the finding of the Civil Court. The revisional Court has observed that there is no merit in the contention of the petitioners that there was a family partition and such an issue would be within the domain of the Civil Court. In fact, the revisional Court has observed that it has been held in Civil Suit No.247/90 that the suit lands fell in exclusive ownership of the respondents herein. Therefore, the petitioners' contention has been rejected. The revisional Court, on the basis of the evidence on record, rejected the application and held that the land was not ancestral. Had it been so, the name of the concerned persons would have been mentioned in the earlier entries such as entry no.995.

3. In the result, there is no merit in the Writ Petition which is hereby dismissed. It is settled law that mutation entries must be made in accordance with the finding of the Civil Court and if there is any order to the contrary, of any Civil Court, the petitioners shall be at liberty to apply for a change.

Sd/-

S.A. BOBDE, J.